



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

August 18, 2017

Clerk United States Court of
Appeals for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th St., Rm 24.329
St. Louis, MO 63102

Re: *NLRB v. Premier Environmental
Solutions, LLC*, Board No. 14-CA-191378

Dear Mr. Gans:

I am enclosing an original and three copies of the Board's application for summary entry of a judgment enforcing the Board's order in this case, and copies of a proposed judgment.

Please serve a copy of the application on Respondent, whose address appears on the service list. Additional copies are provided for service on the Respondent. I have served a copy of the Board's application and proposed judgment on each party admitted to participate in the Board proceedings, and their names and addresses also appear on the service list.

I am counsel of record for the Board, and all correspondence should be addressed to me. I would appreciate your furnishing the Board's Regional Director, whose name and address also appear on the service list, with a copy of all correspondence the Court sends to counsel in this case, and a copy of the judgment issued.

Very truly yours,

Linda Dreeben
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD
1099 14th Street, N.W.
Washington, D.C. 20570
(202) 273-2960

cc & documents to: Service List

SERVICE LIST

RESPONDENT:

Duane Jones, President
Premier Environmental Solutions, LLC
41105 Technology Park Dr.
Sterling Heights, MI 48314-4155

Phone: (586) 977-6471
Fax: (586) 977-6470
Email: djones@premierenvironmental.net

CHARGING PARTY:

Alexander Waschneck
Teamsters Local Union No. 838, affiliated
with International Brotherhood of Teamsters
4501 Emanuel Cleaver II Blvd.
Kansas City, MO 64130-2371

Phone: (816) 924-3460
Fax: (816) 924-3845
Email: alex@kcteamsters.com

REGIONAL DIRECTOR:

Leonard J. Perez
National Labor Relations Board
1222 Spruce St., Rm. 8.302
St. Louis, MO 63103-2829

Phone: (314) 539-7770

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
	:	
Petitioner	:	No.
v.	:	
	:	Board Case No.:
PREMIER ENVIRONMENTAL SOLUTIONS, LLC	:	14-CA-191378
	:	
Respondent	:	

APPLICATION FOR SUMMARY ENTRY OF A JUDGMENT
ENFORCING AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

To the Honorable, the Judges of the United States
Court of Appeals for the Eighth Circuit:

The National Labor Relations Board (the “Board”), pursuant to Section 10(e) of the National Labor Relations Act, as amended (29 U.S.C. §§ 151, 160(e)), applies to this Court for summary entry of a judgment enforcing its order against Premier Environmental Solutions, LLC (“Respondent”). The Board is entitled to summary enforcement because Respondent failed to file an answer to the Board’s unfair labor practice complaint and the Board entered an order by default. In support, the Board shows:

A. Jurisdiction of this Court

This Court has jurisdiction over this application under Section 10(e) of the Act (29 U.S.C. § 160(e)). Venue is proper in this Circuit because the unfair labor

practices occurred in Missouri. The Board's final order issued on July 25, 2017, and is reported at 365 NLRB No. 111.

B. Proceedings Before the Board

1. On April 27, 2017, the Regional Director in Region 14 issued a corrected complaint and notice of hearing in Case No. 14-CA-191378, charging Respondent with certain violations of the Act. The complaint, in part, advised the Respondent that under the Board's Rules (29 C.F.R. 102.20 and 102.21), the Respondent was required to file an answer May 11, 2017, and that if the Respondent failed to file an answer, the allegations of the complaint may be deemed to be true.

2. Having not received an answer, counsel for the General Counsel, on May 12, 2017, sent the Respondent a letter and an email advising that if no answer was received by May 19, 2017, the Board's Regional Office would file a Motion for Default Judgment with the Board.

3. The Respondent did not file an answer.

4. On May 22, 2017, counsel for the Acting General Counsel filed with the Board a Motion for Default Judgment based upon the Respondent's failure to file an answer to the complaint.

5. By order dated May 24, 2017, the Board transferred the case to itself and issued a Notice to Show Cause, giving Respondent until June 7, 2017, to file with the Board in Washington, D.C., a response to the Motion for Default Judgment.

6. Respondent did not file a response.

7. The Board, on July 25, 2017, issued its Decision and Order, granting the Motion for Default Judgment in the absence of good cause being shown for Respondent's failure to file a timely answer, and entering an appropriate order against the Respondent.

C. The Board Is Entitled to Summary Enforcement of Its Order

On these facts, the Board is entitled to summary enforcement of its order against Respondent. Where a respondent in a Board proceeding fails to file an appropriate answer to the unfair labor practice complaint in a timely manner, the Board may, pursuant to Board Rule 102.20, absent a showing of "good cause," deem the complaint's allegations admitted, and then may enter an order, essentially by default, against the respondent. No cause for Respondent's failure to file an answer was alleged or shown here.

It is settled that the Board is entitled to have that default judgment summarily enforced. Under Section 10(e) of the Act (29 U.S.C. § 160(e)), no objection that has not been urged before the Board shall be considered by a court of appeals "unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances." Interpreting that requirement, courts have consistently held that a respondent's failure to assert any defense before the Board entitles the Board, absent extraordinary circumstances, to summary

enforcement of its order. *See, e.g., Father and Sons Lumber v. NLRB*, 931 F.2d 1093, 1095-96, 1097 (6th Cir. 1991); *NLRB v. Continental Hagen Corp.*, 932 F.2d 828, 830 (9th Cir. 1991); *NLRB v. Dane County Dairy*, 795 F.2d 1313, 1319-21 (7th Cir. 1986); *Oldwick Materials, Inc. v. NLRB*, 732 F.2d 339, 341 (3d Cir. 1984); *NLRB v. Aaron Convalescent Home*, 479 F.2d 736, 738-39 (6th Cir. 1973).

No such circumstances have been alleged or shown here.

WHEREFORE, the Board respectfully requests that the Court, after serving notice of the filing of this application on Respondent, enter judgment summarily enforcing the Board's order in full. A proposed judgment is attached.

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dated in Washington, D.C.
this 18th day of August, 2017

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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Petitioner	:	No.
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PREMIER ENVIRONMENTAL SOLUTIONS, LLC	:	14-CA-191378
	:	
Respondent	:	

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Premier Environmental Solutions, LLC, its officers, agents, successors, and representatives, enforcing its order dated July 25, 2017, in Case No. 14-CA-191378, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Premier Environmental Solutions, LLC, its officers, agents, successors, and representatives, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

DATED:

NATIONAL LABOR RELATIONS BOARD

v.

PREMIER ENVIRONMENTAL SOLUTIONS, LLC

ORDER

Premier Environmental Solutions, LLC, Kansas City, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from
 - (a) Refusing to bargain collectively with Teamsters Local Union No. 838, affiliated with International Brotherhood of Teamsters (the Union), by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of the Respondent's unit employees.
 - (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
 - (a) Furnish to the Union in a timely manner the information requested by the Union in early November 2016 and on December 5 and December 27, 2016.
 - (b) Within 14 days after service by the Region, post at its facility in Kansas City, Missouri (Kansas City Ford Plant), copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 14, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps

shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 1, 2016.

- (c) Within 21 days after service by the Region, file with the Regional Director for Region 14 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO MEMBERS AND EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish to the Union in a timely manner the information it requested in early November 2016 and on December 5 and December 27, 2016.

PREMIER ENVIRONMENTAL SOLUTIONS, LLC

The Board's decision can be found at www.nlr.gov/case/14-CA-191378 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD	:	
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	:	Board Case No.:
PREMIER ENVIRONMENTAL SOLUTIONS, LLC	:	14-CA-191378
	:	
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment and proposed judgment, in the above-captioned case, has this day been served by first class mail upon the following parties at the addresses listed below:

Duane Jones, President
Premier Environmental Solutions, LLC
41105 Technology Park Dr
Sterling Heights, MI 48314-4155

Linda Dreeben
Deputy Associate General Counsel
National Labor Relations Board
1099 14th Street, N.W.
Washington, D.C. 20570

Dated at Washington, D.C.
this 18th day of August, 2017